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13
14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 EDGAR W. TUTTLE; ERIC BRAUN; THE
18 BRAUN FAMILY TRUST; and WENDY
MEG SIEGEL, on behalf of themselves and all

19 Plaintiffs,

20 v.

21 SKY BELL ASSET MANAGEMENT, LLC;
22 et al.

23 Defendants.

Case No. 3:10-cv-03588-WHA

**~~PROPOSED~~ ORDER REGARDING
DISCOVERY DISPUTE HEARING**

Judge: Hon. William H. Alsup

Date Comp. Filed: July 14, 2010

Trial Date: March 12, 2012

24 On September 13, 2011, the Court held a hearing regarding discovery disputes raised by
25 certain defendants. The following parties appeared through counsel to meet and confer and be
26 heard regarding these discovery disputes: McGladrey & Pullen, LLP, Rothstein Kass & Co., PC,
27 Ernst & Young, LLC (collectively, the "Auditor Defendants"), and plaintiffs.

28 The parties resolved disputed issues during the meet-and-confer, and presented the

1 following proposal to the Court for the Court's consideration. For the reasons stated on the
2 record, the Court hereby grants the parties' requested relief as follows.

3 1. Plaintiffs' Reply to Defendants' Opposition to the Plaintiffs' Motion for
4 Certification of a Plaintiff Class and Subclasses, Appointment of Class Representatives, and
5 Appointment of Class Counsel ("Motion for Class Certification") remains due on September 15,
6 2011;

7 2. Plaintiffs will produce named plaintiffs Eric Braun, the Braun Family Trust,
8 Wendy Siegel, and Edgar Tuttle for depositions no later than September 26, 2011. Plaintiffs and
9 Auditor Defendants will endeavor to schedule all three depositions on a single day at a mutually
10 agreeable date and time, in San Francisco. Time spent taking these depositions will not count
11 against any of the Auditor Defendants' total time for depositions under the Federal Rules of Civil
12 Procedure or other applicable rules or agreements;

13 3. The depositions described in paragraph 2 will cover the issues set forth in the
14 Auditor Defendants' letter brief of August 29, 2011 [Dkt. # 212];

15 4. After the depositions described in paragraph 2 have occurred, should any of the
16 Auditor Defendants deem it necessary, they may file a supplemental brief in support of their
17 Opposition to Plaintiffs' Motion for Class Certification of no more than five pages, no later than
18 6:00 p.m. on September 28, 2011;

19 5. If any of the Auditor Defendants files a supplemental brief as described in
20 paragraph 4, Plaintiffs may file a response to any such brief if they deem it necessary, limited to
21 the issues addressed in the Auditor Defendants' Supplemental brief, as described in paragraph 4.
22 Plaintiffs' response may be no more than five pages and must be filed no later than September
23 29, 2011;

24 6. The hearing on Plaintiffs' Motion for Class Certification will be continued until
25 October 13, 2011 at a time convenient for the Court;

26 7. Plaintiffs will produce all documents reflecting communications to or from any
27 named plaintiff (other than with attorneys) that relate to the subject matter of the instant
28 litigation, which were created prior to September 2009, when Plaintiffs' law firm was first

1 contacted by a putative plaintiff in connection with the instant litigation. Plaintiffs will also
2 produce all non-privileged communications relating to the subject matter of the lawsuit
3 subsequent to September 2009. This discovery will be produced no later than September 19,
4 2011;

5 8. Plaintiffs will produce a privilege log documenting all privileged communications
6 created in September 2009 up until the filing of the Complaint on July 14, 2010. This privilege
7 log, along with any documents required to be produced under the Court's Supplemental Order to
8 Order Setting Initial Case Management Conference in Civil Cases Before Judge William Alsup
9 [Dkt. # 4], shall be produced to the Auditor Defendants no later than 12:00 p.m. on the day
10 before the depositions, as discussed in paragraph 2 above;

11 9. The parties agree that no privileged communications created after the filing of the
12 Complaint on July 14, 2010 need to be logged ;

13 10. Nothing in this Order excuses or discharges any party's continuing obligation to
14 produce non-privileged documents as required under the Federal Rules of Civil Procedure, the
15 Court's standing orders, or other agreements between the parties.

16
17 IT IS SO ORDERED.

18
19 Dated: September 16, 2011.



HON. WILLIAM H. ALSUP
United States District Judge